THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 11807 of 2006

15-06-2006

Between:-

Rampam Gopalakrishna

Petitioner

And

State of A.P., rep., by its Special Chief Secretary, Revenue (Endowments) Department, Secretariat, Hyderabad and four others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 11807 of 2006

Oral order:

The petitioner is a cultivating tenant of the lands belonging to the 5th respondent-Temple, leasehold rights in respect of which he acquired pursuant to becoming the highest bidder in the public auction held on 20-05-2005. He claims to have deposited the entire rental for the lease period of three years and to have invested huge amounts for raising a Nursery in the land.

Now the State Government has proposed to acquire the land in an extent of Ac.02-00 in survey No.59/1 of Damireddypally village, Kadiam mandal, East Godavari district and a notification under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act') has been issued invoking the urgency clause under Section 17 (4) of the Act and dispensing with the inquiry under Section 5-A of the Act. Declaration under Section 6 of the Act has also been published on 23-05-2006. The petitioner is aggrieved.

The land is proposed to be acquired for providing house sites to the weaker sections under the 'Indiramma Pathakam'. Provision of house sites to the people belonging to the economically weaker sections is a recurring programme of the State and does not involve

such emergency as to justify invocation of the urgency clause and dispensing with the salutary and statutory inquiry under Section 5-A of the Act.

In the aforesaid circumstances, after hearing the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition, the writ petition is disposed of as follows:

a. Declaration under Section 6 of the Act dated 23-05-2006 proposing acquisition of land in an extent of Ac.02-00 belonging to the 5th respondent-Temple in survey No. 59/1 of Damireddypally village, Mandal Kadiam, East Godavari district, is quashed.

b. The decision invoking the urgency clause under Section 17(4) of the Act and dispensing with the inquiry under Section 5-A of the Act is declared as arbitrary and illegal.

c. The State shall now proceed to conduct an inquiry under Section 5-A of the Act and for that purpose shall issue a notice to the 5th respondent-Temple as well as the petitioner, cultivating tenant under a valid lease, consider their objections and thereafter, the 1st respondent shall communicate the decision pursuant to the inquiry under Section 5-A of the Act to the 5th respondent and the petitioner and only thereafter pursue further action pursuant to the inquiry under Section 5-A of the Act. Meanwhile, the petitioner's possession in respect of the lands shall not be disturbed. No costs.

GODA RAGHURAM, J

Dated:15-06-2006

Pvks/*